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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/605,637	06/28/2000	Hiroki Yoshida	018775-795	6560

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EXAMINER	
WU, JINGGE	

ART UNIT	PAPER NUMBER
2623	

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	09/605,637	YOSHIDA, HIROKI	
	Examiner	Art Unit	
	Jingge Wu	2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
   (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ they raise the issue of new matter (see Note below);
   (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____.
3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *see another page*.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: *3-6,11 and 14-17*.
   Claim(s) rejected: *1-2, 7-10, 18-20*.
   Claim(s) withdrawn from consideration: _____.
8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

a. Applicant argues that It is no clear that whether Nakamura teaches the concept of classifying the skin colors beforehand and Examiner fails to address the issue "beforehand".

In response to applicant's argument, Examiner would like to point out that claim language is given its broadest reasonable interpretation. In the instant case, the broad claim language in claims 1 and 10 calls for "extracts skin areas ... according to the classification of the characteristic of a plurality of skin colors", and in the preamble "the characteristics of a plurality of skin colors beforehand". Nakamura expressly teaches that using the histograms to classify the colors of the input image, specifically, "It is decided which divided mountain each picture element belongs by judging which hue value range the hue value of each picture element belongs to and many picture elements are classified into groups (clusters) corresponding to the divided mountains" (col. 2 lines 61-65) and "man picture elements are clustered in accordance with the mountains of the clustered two dimensional histogram and a screen is divided in according with the clustering to extract an region prospective for a person's face among divided regions (col. 12 lines 46-50). In addition Nakamura expressly mentions in fig. 2 that classification (clustering) (step 106) is conducted beforehand the extraction of face region (step 107). Furthermore, Examiner expressly mention that clustering means classification (previous OA, page 4, line 6). Finally, Nakamura clearly shows that extraction of skin color according to the classifications of the skin colors and correcting the skin colors (see office action).

b. Applicant further argues that Nakamura fails to teach "a plurality of skin areas" and correct "each of skin areas" because Nakamura only teaches "a person's face".

In response to applicant's argument, Examiner would like to point out that claim language is given its broadest reasonable interpretation. The specification is not measure of invention. Therefore, limitations contained therein can not be read into the claims for the purpose of avoiding the prior art. In re Sporck, 55CCPA 743, 386 F. 2d 924, 155 USPQ 687 (1968). First, a plurality of skin areas does not necessarily mean plural persons. One person may have a plurality of skin areas, and even a person's face may have a plurality of skin areas. Nakamura's fig. 23 B has possible face area FD2 and hand skin area FD1, and fig. 24A shows two skin areas of a person' face, Cx and Cp. Furthermore, Natamura would correct and unify the each of skin areas according to the procedure of fig. 22.

Therefore, the 102 rejection is proper.